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10 **IN THE UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 NML CAPITAL, LTD.

13 Plaintiff,

14 vs.

15 THE REPUBLIC OF ARGENTINA

16 Defendant.

17 Case No.: 2:14-cv-00492-JAD-VCF

18 **JORGE LANATA'S REPLY IN SUPPORT
19 OF HIS MOTION TO UNSEAL**

20 Jorge Lanata requests that the Court unseal the deposition testimony of
21 Patricia Amunategui. Sealing this testimony violates the rights of the press and of
22 the people at large, as guaranteed to them under the First Amendment and
23 long-standing traditions of Common Law.

24 **1.0 Analysis**

25 **1.1 A confidentiality agreement does not trump the First Amendment
26 and common law rights of access**

27 Ms. Amunategui argues that the parties agreed to keep this information
out of the public eye, and that should be sufficient to do so. ECF 80 at 5. If this
were a private arbitration, this argument may have some merit. But, with all
respect to Ms. Amunategui's position, what she and the parties agreed to is
entirely irrelevant. Access to the courts is neither Ms. Amunategui's, nor NML
Capital's, nor The Republic of Argentina's to barter or broker – that access

1 belongs to the people. See *Nixon v. Warner Communications*, 435 U.S. 589, 597
2 (1978) (public access is a common law right).

3 Without revealing the content of the deposition in a public document,
4 counsel for the Intervenor can reveal that virtually none of the information in the
5 file warrants such an arrangement. However, it is quite understandable why Ms.
6 Amunategui would find herself motivated to demand secrecy – given the fact
7 that she is, by all evidence, an unfortunate pawn in a much larger game, and it
8 takes very little imagination to see that her benefactors and masters are really
9 the ones interested in keeping this information confidential. Or at the very least,
10 Ms. Amunategui is attempting to distance herself from the unsavory game she
11 herself was a pawn in.

12 There is a “strong presumption in favor of access.” *Foltz v. State Farm Mut.*
13 *Auto. Ins. Co.*, 331 F.3d 1122, 1135 (9th Cir. 2003) (citing *Hagestad v. Tragesser*,
14 49 F.3d 1430, 1434 (9th Cir. 1995)). This presumption grows from deep historical
15 and constitutional roots. Public access is a common law right reaching back to
16 the very foundations of the common law system. See *Nixon v. Warner*
17 *Communications*, 435 U.S. 589, 597 (1978).

18 The 9th Circuit reinforced this common law presumption in *Kamakana v.*
19 *City and County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (“Historically,
20 courts have recognized a general right to inspect and copy public records and
21 documents, including judicial records and documents...[t]his right is justified by
22 the interest of citizens in ‘keep[ing] a watchful eye on the workings of public
23 agencies’”) (citing *Nixon* at 597, 598 & n. 7).

1 **1.2 Ms. Amunategui's testimony is dispositive as to the outcome of this**
2 **case, seeking to identify and recover Argentinian assets located in**
3 **the United States**

4 Ms. Amunategui attempts to claim she is just an innocent bystander, with
5 no role or importance in the outcome of this litigation. ECF 80 at 11. However,
6 this is a misstatement as to what *this* case is. This case, filed in the District of
7 Nevada, was filed for the purpose of identifying and recovering Argentinian
8 assets that have allegedly been laundered through shell corporations in
9 Nevada, before making its way to offshore banks in the Seychelles and beyond.
10 As to this case, Ms. Amunategui's testimony is dispositive and highly probative as
11 to the outcome here. Ms. Amunategui has first hand knowledge as to how
12 these shell corporations were set up, by whom, and for whose benefit. And that
13 is precisely what this case here is about.

14 In *Nixon*, the Supreme Court recognized the federal common law right "to
15 inspect and copy public records and documents." *Nixon* at 597. This right
16 extends to pretrial documents filed in civil cases. See *San Jose Mercury News,*
17 *Inc. v. United States Dist. Court - N. Dist.*, 187 F.3d 1096, 1102 (9th Cir. 1999). Here,
18 as all parties have quoted Ms. Amunategui's deposition transcript at length,
19 albeit currently in redacted form, the parties have placed the contents of Ms.
20 Amunategui's deposition directly at issue here, and as such, the contents of her
21 deposition should be made public.

22 **1.3 No good cause exists**

23 Here, Ms. Amunategui has not put forth any particularized showing of
24 good cause as to why the deposition testimony must be sealed, other than that
25 she desires it to be sealed. The crux of her argument is that she agreed to be
26 deposed and produce documents only under seal, because she feared some
27 inarticulable harm or embarrassment. That is not good cause, and that is not

1 sufficient to overcome the constitutional burden imposed in order to bar the
2 public from the Court's proceedings.

3 While Ms. Amunategui couches the request to seal her deposition
4 testimony as creating a "veil of privacy" in order to prevent personal exposure,
5 instead, Ms. Amunategui is seeking to prevent the public and the press from
6 obtaining insight into this Court's matters. ECF 80 at 15. However, there is a
7 common law right "to inspect and copy public records and documents." Nixon
8 at 597. Nothing in Ms. Amunategui's Opposition raises any cognizable argument
9 that could constitute good cause to overcome that common law right.

10 Any notion of harm that Ms. Amunategui claims she will suffer if the
11 deposition transcript were made public are convoluted, generic, and
12 unpersuasive. See *Beckman Indus., Inc. v. International Ins. Co.*, 966 F.2d 470, 476
13 (9th Cir. 1992) ("broad allegations of harm, unsubstantiated by specific
14 examples or articulated reasoning, do not satisfy the Rule 26(c) test"). Ms.
15 Amunategui's Opposition continues to put forth no particularized showing that a
16 specific prejudice or harm will result in the event that her deposition testimony is
17 unsealed, and the prior-filed documents are no longer redacted. *AmerGen*
18 *Energy Company, LLC v. U.S.*, 115 Fed. Cl. 132, 147 (2014) ("a party must
19 demonstrate that specific prejudice or harm will result if no protective order is
20 granted"). Instead, she parades around the same tired arguments that her
21 interest in privacy and preventing her embarrassment should trump all other
22 interests, including those of The People.

23 The undersigned has reviewed the deposition transcript, and sees nothing
24 that would actually warrant sealing the entirety of the deposition transcript. Ms.
25 Amunategui may not appreciate how she is portrayed as a result of her serving
26 as Secretary for MF Nevada, but she has failed to raise any actual argument as
27 to why this information must remain under lock and key. "The mere fact that the

1 production of records may lead to a litigant's embarrassment, incrimination, or
2 exposure to further litigation will not, without more, compel the court to seal its
3 records." Kamakana at 1179.

4 **1.4 Ms. Amunategui mischaracterizes the information contained in the**
5 **deposition and attempts to downplay its relevance and importance**

6 Ms. Amunategui was the sole employee of MF Nevada for over a decade
7 and oversaw corporate registration for thousands of companies forming under
8 the Nevada Secretary of State's regulations. Ms. Amunategui served as the
9 Secretary for MF Nevada (not to be confused with merely being a secretary at
10 MF Nevada). She may be the only one who possesses this information as to how
11 MF Nevada, and therefore Mossack Fonseca operates. She may be the only
12 person who has information and supporting documents that demonstrate how
13 the shell corporations were formed, and at who's bequest, and therefore, who is
14 ultimately responsible for laundering away billions of dollars worth of Argentina's
15 money.

16 Ms. Amunategui has attempted to minimize the relevance and
17 importance of every detail of her deposition testimony. Counsel for Ms.
18 Amunategui does agree that the facts that Ms. Amunategui worked for MF
19 Nevada, which provided services directly to Mossack Fonseca, which may have
20 been involved in Argentinian money laundering are related to the underlying
21 issues of this case. ECF 80 at 11. Therefore, all facts and details in the deposition
22 testimony that pertain to those issues are also related and relevant. Ms.
23 Amunategui's traveled for work as the Secretary of MF Nevada. That is not the
24 same as personal travel plans that have no relevance to anything related to this
25 case. ECF 80 at 11. Ms. Amunategui's employment contract is not personal
26 and confidential, but instead details the relation and interaction between MF
27 Nevada and Mossack Fonseca, and provides greater insight into the operations

1 of these companies. These facts, while about Ms. Amunategui, are more
2 importantly about MF Nevada, Mossack Fonseca, and Argentinian money
3 laundering.

4 The people of Argentina have a right to see this information for obvious
5 reasons. The people of the United States and especially Nevada have a right to
6 see how their courts and corporate laws have been used, and perhaps abused.

7 **1.5 This information is necessary to demonstrate the truth to the people**

8 The fact that Mr. Lanata has been threatened with defamation for his
9 reporting on the topic of money laundering, and Ms. Amunategui's testimony
10 would confirm his reports, is not to say that Mr. Lanata is seeking to use the
11 deposition transcript for his own personal gain. Furthermore, Mr. Lanata is
12 certainly not seeking to use it to "gratify private spite" as Ms. Amunategui claims
13 he will do. ECF 80 at 12. Mr. Lanata harbors no personal spite, and has no
14 interest in harming Ms. Amunategui. Mr. Lanata is only interested in the truth.
15 And the truth is contained in this Court's record.

16 The example of Mr. Lanata being threatened with defamation is simply
17 one example of the people's need to have the facts and the proceedings of
18 this case made publically available, for the people to see with their own eyes
19 what is happening in our courts. Snippets of this information exist in some forms
20 of media, but nothing has been demonstrated in sworn testimony, and for that
21 very reason, the public should have the ability to make its own informed
22 decisions as to Argentina's alleged use of Nevada corporations to further its own
23 misdeeds. The public has a need and a right to know what is happening.

24 **2.0 Conclusion**

25 Based on the foregoing, Intervenor Jorge Lanata, respectfully requests
26 that this Court unseal the deposition testimony of Ms. Patricia Amunategui, and
27 allow the public and the media access to this necessary and important

1 evidence in this case. This Court should not yield to the interests that wish to
2 deprive the public of the right and ability to observe this Court's proceedings.

3
4 Dated: 6 February 2015
5

6 Respectfully Submitted,
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10 /s/ Marc J. Randazza
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Reply was filed electronically on 6 February 2015 and served electronically via CM/ECF.

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